IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 542 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HEMTAJI BHIKHAJI SOLANKKI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 542 of 2004

MR PARESH UPADHYAY for Petitioner No. 1

MR VM PANCHOLI ld. AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE A.L.DAVE

Date of decision: 16/04/2004

ORAL JUDGEMENT

1. Rule. Mr.V.M.Pancholi, learned AGP waives service of notice of rule on behalf of respondents.

2. The petitioner is aggrieved by non-consideration of his case for appointment on compassionate ground, following demise of his father. His case has been turned down on the ground of delay in preferring such application. The petitioner has made this specific averment in his application in Para.3.8 that the provisions of G.R. dated 7th September,2002 (Annexure-G) were made applicable from 10th March,2000 i.e. prior to the date of demise of the petitioner's father and thus, petitioner's case would be covered by G.R. dated 7th Septemeber,2002. According to said G.R., the application is required to be made within six months by the person claiming benefit. The said G.R. also provides that concerned Office has to give application form for compassionate appointment immediately to the family members. It is the case of the petitioner that Office, where his father was working, has never given such form to the petitioner nor was he informed about it at any point of time, except somewhere in the month of January - February,2001, pursuant to which the petitioner has immediately made the application in question on 27th March,2001.

3. Learned advocate Mr.Upadhyay has drawn attention of this Court to Annexure-G, wherein, Clause-3 specifically provides that the concerned Office should invariably send application form for appointment on compassionate ground to the family of the deceased employee along with family pension form. It is, therefore, urged that due to this non-compliance, the petitioner could not approach the respondent authorities in time for appointment on compassionate ground and the application ought not to have been rejected on this count by the authorities.

4. Learned AGP Mr.Pancholi, on instructions, states that the respondent authorities does not dispute the fact that form for appointment on compassionate ground was not forthwith sent to the family of the petitioner along with the papers for family pension. He, however, states that the petitioner has made a subsequent application / representation somewhere on 28th July,2003 to the Deputy Manager, Sardar Sarovar Narmada Nigam Ltd., which is forwarded to the State Government and is pending

consideration.

5. In light of above set of circumstances, it is clear that delay cannot be attributed to the petitioner, but, to the Office in which the petitioner's father was serving, as the personnel concerned has not complied with the requirement of G.R. at Annexrue-G. However, since the application / representation subsequently made by the petitioner is pending before the Government, this petition can be disposed of with a direction to respondent nos.1 and 2 to consider the application / representation made by the petitioner as early as possible, preferably within three months from the date of receipt of this order. The above stated respondents shall consider the application of the petitioner on merits and shall not reject the same only on the ground of delay.

6. With the above directions, petition stands disposed of. Rule discharged. No cost. Direct service is permitted.

7. To facilitate the consideration of petitioner's case properly by the respondent authorities, the petitioner may make another representation / application setting forth all relevant aspects. Mr.Upadhyay states that such application, if any, would be made within two weeks from today. In such eventuality, the respondent authorities will take decision on both representations simultaneously.

(A.L.Dave,J.)

(vipul)